

1 COMMONWEALTH OF PENNSYLVANIA: IN THE COURT OF COMMON PLEAS
2 : OF DAUPHIN COUNTY, PENNSYLVANIA
3 VS :
4 TYSHAUNT LOVE : No. 937 CR 2002
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8 TRANSCRIPT OF PROCEEDINGS
9 STATE SENTENCE
10
11

12 BEFORE: HONORABLE BRUCE F. BRATTON
13 DATE: Friday, October 28, 2005
14 PLACE: Courtroom No. 3
15 Dauphin County Courthouse
16 Harrisburg, Pennsylvania

17 APPEARANCES:

18 SEAN M. McCORMACK, Esquire
19 Chief Deputy District Attorney

20 For - Commonwealth
21

22 PAUL W. MULLER, Esquire
23 Chief Deputy Public Defender

24 NATHAN C. GIUNTA, Esquire
25 Assistant Public Defender

For - Defendant

COPY

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P R O C E E D I N G S

MR. McCORMACK: I would call the case of Commonwealth of Pennsylvania versus Tyshaunt Love, Docket 937 CR 2002.

On September 20, 2005, before Your Honor, the Defendant during the dates of September 12 through September 20th was tried and was found guilty on September 20th of murder in the third degree.

The Defendant is present in court being represented by his attorneys, Mr. Muller and Mr. Giunta. A Pre-Sentence Investigation was ordered by Your Honor in this case and the Pre-Sentence Investigation is complete. The Defendant is present before the Court today for sentencing.

THE COURT: I assume, Mr. McCormack, you had fair opportunity to review the Pre-Sentence Investigation?

MR. McCORMACK: Yes, I did.

THE COURT: Is there anything you wish to bring to my attention in terms of errors or modifications or --

MR. McCORMACK: I don't have any

1 modifications or errors that I noted. I did note
2 no sentencing guidelines. I have prepared
3 sentencing guidelines. It was a little difficult
4 being the case was so old. In fact, they don't
5 make the forms anymore. I had to photocopy blank
6 ones out of the book. I'll pass those up to the
7 Court, and I have some argument then later.

8 THE COURT: Now, Mr. Muller, I understand
9 from my staff that you too had an opportunity to
10 review the Pre-Sentence Investigation report.

11 MR. MULLER: That's correct.

12 THE COURT: I think we provided a copy so
13 you and Mr. Love could review it together this
14 morning.

15 MR. MULLER: Down in the holding cell he
16 was provided a copy to review and he has reviewed
17 it as well.

18 THE COURT: Are there any errors or
19 anything you would like to bring to my attention?

20 MR. MULLER: I'm sorry, Your Honor; just
21 a moment. Your Honor, there were some minor
22 discrepancies of significance maybe. Mr. Love
23 disputes the assertion that he absconded from
24 parole back in 1998 and any assertion that he
25 tested positive for drugs while on parole. He

1 says that's incorrect as well.

2 His parole officer apparently did not --
3 he was in New York after he was initially
4 released in this case in 1998 and informed him to
5 keep in phone contact and make payments on fines
6 and costs. He didn't make payments on the fines
7 and costs. There probably would have been a
8 violation there.

9 THE COURT: Is the sentence imposed by
10 Judge Clark now a closed docket?

11 MR. MULLER: It is as far as I know.

12 MR. McCORMACK: The last time I had
13 contact from the probation office, they were
14 still holding off on the revocation on that
15 charge pending this case.

16 As for the absconding, the probation
17 office prepared the Pre-Sentence Investigation.
18 A warrant was issued for his arrest in 1998. I
19 would tell the Court that had nothing to do with
20 our investigation into this case. Our grand jury
21 investigation didn't begin until another year or
22 two later.

23 THE COURT: I don't know that again is a
24 terribly material factor in my determination of
25 the sentence here, Mr. Muller. Tell me what I

1 need to know.

2 MR. MULLER: Your Honor, Mr. Love is
3 going to want to address the Court. He has
4 family members here who would like to address the
5 Court on his behalf, and I think I would like to
6 start by calling them up if that's all right.

7 THE COURT: All right, and I know,
8 Mr. McCormack, you said you had argument you
9 would like to add, and I'll provide you the same
10 opportunity.

11 MR. MULLER: Willy Love.

12
13 WILLY LOVE,
14 having been sworn, was examined and testified as
15 follows:

16
17 BY MR. MULLER:

18 Q Would you state your name for the record?

19 A Willy Love.

20 Q And how are you related to Tyshaunt Love?

21 A I'm his father.

22 Q And what can you tell the Court about
23 Tyshaunt?

24 A Well, I had an opportunity to be with my
25 son back in '81. I lived in the Virgin Islands.

1 He came down for a year. He seems to care about
2 others. He had a streak like all young people to
3 see what's going on in the world and what have
4 you, wants to learn about a lot of things, but
5 one of the main reasons I want to speak to the
6 Court today, I just want to give my deepest

7 sympathy to the family. I don't know them and
8 what have you. I know how I would feel in a
9 situation like this. That was the main thing I
10 wanted to give them my deepest sorrow, and that's
11 about all I have to say.

12 THE COURT: All right. Anything else?

13 MR. McCORMACK: No questions, Your Honor.

14 MR. MULLER: Isaac Pelt.

15

16 ISAAC PELT,

17 having been sworn, was examined and testified as
18 follows:

19

20 BY MR. MULLER:

21 Q Could you state your name for the record?

22 A Isaac Pelt.

23 Q Spell your last name.

24 A P-e-l-t.

25 Q And how are you related to Tyshaunt Love?

1 A I'm his uncle.

2 Q On the father's side or mother's side?

3 A On the mother's side.

4 Q Have you had much contact with Tyshaunt
5 over the years?

6 A I pretty much -- as a young child, I was
7 there raising him. So I had a hand in raising
8 him. I've been in the Marine Corps for the last
9 26 years. But before that time when I lived at
10 home, you know, I had pretty much a hand in
11 raising him.

12 One of the reasons why I wanted to at
13 least have an opportunity to address the Court
14 for, No. 1, let me first say, you know, this
15 situation that brings us here is an extremely sad
16 one, and I do want to extend my deepest regrets
17 to the family in this matter. I did want to say
18 that the type of young man that I saw in TJ over
19 the years, I would never thought we would end up
20 in this place. He has had struggles that he had
21 to overcome just like a lot of us that grew up in
22 the New York area, grew up in Harlem, pretty
23 adverse situations probably much like some of the
24 situations that are here in this state.

25 I saw him overcome a lot of things. I

1 mean, and just to overcome the things,
2 academically, those things really show me there's
3 a real person here with some character. Things
4 that have happened, you know, these last couple
5 of years.

6 When he called me and I came and I had
7 the opportunity to see him, he really expressed
8 to me that -- he really expressed his innocence
9 to me, and I was really concerned about that
10 because the loss of human life is against
11 everything we've been taught from my parents and
12 the way we were brought up and the way we raised
13 him definitely is not in keeping. I know that
14 things happen out in life and people take turns.

15 But I think one of the most important
16 things, you know, I can just say from my years of
17 knowing him, I just -- I don't know how this
18 could have happened that he would have created
19 this type of situation.

20 However, again, I say my deep, deepest
21 sympathy. I also ask you to consider the fact
22 that this young man is a person that has some
23 character. He's been striving to make something
24 of himself.

25 MR. MULLER: Thank you.

1 THE COURT: Thank you. Any questions?

2 MR. McCORMACK: No, Your Honor.

3 MR. MULLER: Anita Love.

4

5 ANITA LOVE,

6 having been sworn, was examined and testified as

7 follows:

8

9 BY MR. MULLER:

10 Q Could you state your name for the record?

11 A Anita Love. I'm TJ's aunt from his
12 father's side of the family, and, first of all,
13 I'd like to express to the family of the victim
14 that I'm sorry for their loss from my heart. I'm
15 here today on TJ's behalf. I would like to say I
16 have four children of my own.

17 At the age when TJ -- from a child, he
18 spent time during the summer, during the year
19 with my children. He was like one of mine when
20 he came to spend time with us in New Jersey as a
21 teenager. You go through things. We lost
22 contact. I went through a divorce.

23 I'm here today to express my sorrow for
24 the things that he's gone through, for the family
25 of the victim, and had I known that his life

1 would have taken a turn for the worse, I would
2 have raised TJ, and I just want to express to
3 everyone here today that I'm sorry for this
4 situation that has brought us here today.

5 THE COURT: Thank you. Questions?

6 MR. McCORMACK: No, Your Honor. Thank
7 you.

8 MR. MULLER: Your Honor, Mr. Love would
9 like to address the Court, as is his right.

10 THE COURT: All right. Mr. Love.

11 THE DEFENDANT: Good morning, everybody.

12 First, I would like to start off, there's
13 something -- there's a lot of things actually.
14 This has been like nine years. It's been a very
15 long painful nine years that I had to endure and
16 go through this. It's pretty hard trying to
17 think where to start.

18 I'm thinking like two main people in my
19 life, things that they have told me. Right now
20 at the start, one of them being this lady. She's
21 Sister Mary Anna. She's my social studies --
22 actually my English teacher, homeroom, and she
23 would -- I would like to read poems and things.
24 There's one that, like she said, remember this is
25 something that will apply to you through life and

1 it was a poem, and it went something like, when a
2 word is said, that some people say that the word
3 after it's said that that word is just gone, that
4 the word is no more; went on to say, but I say
5 once the word is said that the word just begins,
6 like, to live and, like, nourishing, grows in
7 people's head. Once the word is spoken the word
8 takes life.

9 She told me, like I said, in 10th grade.
10 She stressed that I really -- I didn't get a
11 grasp of what she meant until a lot of this
12 situation I'm going through here today, that lead
13 up to today. There's been a lot of words spoken
14 and words are like seeds, like taking seeds and
15 grow in people's heads.

16 They are untrue words. They are not
17 true. I pray every day for Iris's family, just
18 the general public, for people to know I looked
19 so forward for this trial and held my head high
20 and kept my faith for people to see for themselves.
21 They say court is a form of justice, that facts
22 come out and, you know, people come -- there are
23 people that speak untruths and they get their
24 chance to get crossed and to be heard, you know,
25 and so forth.

1 Through the nine years of contacting a
2 lot of people, like pillars of this community,
3 I've spoken with people through correspondence
4 and expressed my feelings on just the whole
5 situation overall and, you know, everybody
6 referred -- not everyone. Mayor Reed, he
7 referred me to the courtroom. Everything should
8 be brought out, and points I made to him that
9 these points, you know, should be made here and
10 like other people -- other people that I met that
11 lived in Harrisburg from when I graduated school.

12 In 1993 I came out here. My cousin had
13 come out here. I liked it out here in '93. When
14 I graduated in 1993, I came out here. It was a
15 beautiful town. A lot of things that I got into,
16 I didn't really have any business getting into
17 it, but I was, you know, I was young, and I was
18 like basically having fun or having a good time.
19 There's people -- what I feel about individuals
20 of people, I'm not going to point fingers or what
21 have you.

22 I had some sort of like owning up to do
23 especially with this particular -- with Lynne. I
24 don't know if she's here, like, now. When I was
25 in a relationship with Iris, I met her in the

1 beginning of '94. We were very close friends
2 before we became -- were friends for years, and
3 along like the last days when she was around, she
4 was here, we would speak to Wazzi on the phone.
5 She lived in Milwaukee. Wazzi used to tell me to
6 take care of myself. She would always say, you

7 take care of my sister, and I would say you
8 already know, Wazzi, you already know, and I
9 probably heard when we were out there in the
10 streets, whatever.

11 After a while I didn't know where she was
12 at, asking people where is she, where is she?
13 Because I was -- that was my responsibility, that
14 was something that I agreed and that I said that
15 I would do, look out for her and make sure, you
16 know -- certain things in the relationship that
17 you just do automatically, that just comes
18 natural and in a situation that things that we
19 were doing basically was cutting corners, we
20 would call it.

21 Iris used to say, she was like, we're
22 heathens right now. We got to get right. That
23 was my best friend. We've been through, me and
24 her, a lot people don't know about. They were in
25 their own little world, and basically pretty much

1 we were. We are like around, like, people didn't
2 know about us. We done illegal things. Our
3 families are similar. We had much in common that
4 way. She has a big family. I have a big family
5 too. We would just be talking about, like, the
6 things that happened when we were young. We went

7 through some of the same things, and, like, we
8 both are Christians. We actually went to church
9 together. We would have conversations outside
10 just talking about God. She would say something.

11 I would say something, like, be upset
12 about a dude and I'm talking, like, man, this
13 dude and like -- like when I see him because he
14 had something wrong. Like I would say actually
15 I'm going to kill this dude not meaning, like,
16 I'm going to kill the dude, you know, like you
17 would be upset with somebody. Like, I'm going
18 to, like, you're mad at them, like, you're
19 frustrated.

20 Just the word that came out and she would
21 say, that's not worth it. I would actually, I'd
22 say, I don't mean it, like, because she would say
23 I'm going to heaven. Don't you want to go to
24 heaven? Yeah, I'm going to heaven. Yeah, me
25 too. She's, like, the way it sounded. What

1 makes you think that? Like, I was, like, what
2 makes you take it like that? That's because
3 that's what you said. Then it goes back to like
4 when a word is spoken. It, like, goes to say,
5 like, my mom say, maybe half kill you. I would
6 know this is my mother. She's not talking about
7 killing me or whatever.

8 Just this person, this thing that was on
9 my mind was my grandmother used to say -- this
10 was my grandmother on my mother's side -- Nellie
11 Love. Every summer I would go out there. She
12 would make me do yard work around the house. My
13 grandfather used to do yard work. I used to feel
14 some kind of way. She kept the house up. It
15 wasn't like the house was a disaster.

16 It was yard work that needed to be done,
17 and I would be there and I would say, why do I do
18 all this work? I'm coming up, like, for a school
19 vacation or summer vacation in my big head.

20 Danny Love is sitting in the front seat. Danny
21 was there all day long. He didn't help granddad
22 clean the garage or the basement or whatever. I
23 know my grandfather was teaching me, like,
24 structure and, like, I would go ahead and do it.

25 I would be, like, a little upset, but my

1 grandmother, she always was like the weeds need
2 pulled around the house, like around the gate,
3 like weeds that grew. She would say, TJ, you did
4 good. You helped granddad. The only thing I
5 need to do is pull up the weeds around the gate.
6 She would say pull up the weeds and trim the

7 hedges around the house, and I would, like, be
8 all right, get the stuff and cutters out of the
9 garage.

10 To make a long story short, I would try
11 to take the shortcut. Instead of me pulling up
12 the weeds, like she said, I would get the hedge
13 clippers and I would cut the hedges and bushes
14 and trim them nice. I would sweep away -- I got
15 the hedge right here. I would cut down the weeds
16 like they are gone. You can't see the weeds.
17 Like she would kind of actually be specific, pull
18 the weeds up.

19 Now, two days would go by, three days
20 would go by. It looks, like, nice. She would
21 call me. I want to show you something. I was,
22 like, what happened? I thought I told you to do
23 the hedges and do the weeds, and I said, I did do
24 the weeds and I did the hedges. No, you didn't
25 do what I told you to do. She said look out

1 there. I looked out there, and I said, well,
2 yeah, they grow back. They grew back. She said
3 why did they grow back? I don't know. They grew
4 back because you didn't do what I told you to do.
5 I told you to pull those weeds. If you would
6 have pulled them up by the root, then the weeds
7 wouldn't have came back.

8 So when I think of that, I think, like,
9 of her instructions and pulling the weeds up by
10 the root and everything and like my prayer has
11 been for this whole time is like this situation
12 with these guys. They need to be pulled up by
13 the root, and unfortunately that didn't occur
14 here in this courtroom.

15 The person told me I don't know what
16 happened, where they are, whatever. I just say a
17 prayer for the family constantly for their pain.
18 The pain every day, I feel that pain. The pain,
19 I know what it is.

20 Then another thing that I have to address
21 that I would like to address is, like, we had
22 some type of friendship that turned into us
23 becoming intimate and becoming -- we had some
24 type of understanding and I against that -- I
25 didn't have a relationship, but I cheated. I

1 wasn't there where I should have been, and that's
2 something that I have to live with forever, and I
3 told Wazzi that I would be there. I wasn't
4 there. She told me to take care of my sister,
5 and I said, yeah, and I wasn't there, and for
6 that, I apologize, and I know that I probably
7 will never be forgiven. I just pray. I pray. I
8 pray every day that the truth comes to light,
9 that the person that's responsible for this, not
10 only that they be brought to justice through your
11 court, Judge Bratton, but also I already know
12 they are going to pay. I pray that the day they
13 come in this court, the truth comes out and God
14 gives them the strength and the courage to come
15 and speak the truth.

16 One last thing -- this is the last
17 thing -- I read over the presentence report
18 thing, and it was like -- there was nothing like
19 I said. I told myself if I don't have anything
20 nice to say, don't say anything about anyone.
21 I'm not just going to say it at all. My grandmom
22 had told me. But this is just to Officer Smiley
23 Heffner. I don't walk around with my head up
24 because I feel I'm invincible. I walk around
25 with my head up because I'm innocent. That's

1 why. That's all I have to say.

2 THE COURT: Thank you, Mr. Love.
3 Anything else?

4 MR. MULLER: No, Your Honor. Just
5 briefly, as you know --

6 MR. McCORMACK: If you were going to
7 argument, I have some victim impact.

8 THE COURT: Let's hear from third persons
9 first. Then I'll allow each side an opportunity
10 to give me their position.

11 MR. McCORMACK: Angela Robinson.

12
13 ANGELA ROBINSON,
14 having been sworn, was examined and testified as
15 follows:

16
17 BY MR. McCORMACK:

18 Q Ma'am, state your name for us.

19 A Angela Robinson.

20 Q And before you say anything, I want to
21 just remind you, your comments should be directed
22 to the Court, okay, as to how -- I guess my
23 question for you is, what relevant information do
24 you have as to how this has affected both
25 yourself and Iris's family?

1 A Okay. Well, first of all, I just want to
2 say I wasn't there so I don't know what happened
3 and only God does, but you sit here and profess
4 your innocence.

5 THE COURT: Your comments should be
6 directed to me not to any other individual.

7 BY MR. McCORMACK:

8 Q Before you begin, are you related in any
9 way?

10 A No; just a good friend, very good friend.
11 You know, I did -- when this all happened, I did
12 give my information, you know. Whether or not
13 they wanted to hear it at the time was another
14 thing. I was called later on. I gave everything
15 I know about what I thought had happened, and,
16 like I said, I don't know what happened there. I
17 wasn't there, but I know for a fact that he
18 definitely knows what happened, and he needs to
19 just stop professing his innocence and, you know,
20 stop living by the street code or whatever you're
21 going by and just tell the truth, you know, cause
22 he knows, you know what I mean, and I know he
23 knows.

24 If he did do it, tell the truth, because
25 it's too late now. I mean, you know he didn't

1 tell what happened because you don't -- you know,
2 everyone since I've been up here in Harrisburg, I
3 know it's a lot of people. They live by the
4 streets, and that's not the right way. You end
5 up dead or in jail or just have a miserable life.
6 You got to live by God. That's just his

7 downfall, you know. I mean, you sit there and
8 you say you have faith now. Where was your faith
9 then when this all happened? And I know you're
10 feeling pity for yourself now. You should have
11 been having faith then. You would never be here.
12 Iris would be with us. She has a daughter. If
13 somebody could have took your mom away from you,
14 that would have hurt, right?

15 THE COURT: To me.

16 THE WITNESS: I just think that he does
17 belong here because he should have opened his
18 mouth when he had the chance and told the truth
19 because he knows. You know what happened. So I
20 just -- I hope one day if you don't say nothing
21 now today to the family and tell everything, you
22 just breakdown and tell them what happened. I
23 hope one day if you haven't already, you open up
24 and let somebody know, you know what I mean. He
25 already knows but you need to tell him.

1 MR. McCORMACK: Thank you.

2 THE COURT: Anything else?

3 MR. MULLER: No.

4 MR. McCORMACK: Charlena Belcher.

5

6 CHARLENA BELCHER,

7 having been sworn, was examined and testified as
8 follows:

9

10 BY MR. McCORMACK:

11 Q Could you please state your name for us?

12 A Charlena Rebecca Belcher.

13 Q Are you related in any way to Iris
14 Belcher?

15 A Iris Fennel Belcher, born January 26,
16 1977, is my third-born child.

17 Q And, again, I would remind you when we
18 talked outside about this as part of a
19 victim/impact statement, you should address the
20 Court with your words. I ask, how has Iris's
21 death affected both you and your family?

22 A On December 20th and 21st, my memory for
23 some reason won't let me remember the exact day.
24 I'm a registered nurse, and I worked so many
25 overtime hours that they called me at home and

1 told me to stay home and sleep in the morning. I
2 got a phone call. I was downstairs on the couch
3 and Cookie said to me, Charlena, Iris is here,
4 and I can't get a pulse. I said, what do you
5 mean you can't get a pulse? She's probably got a
6 cold because the bus driver here had passed out
7 while he was driving the bus. It was a bad flu
8 season. Cookie, what's she doing? She couldn't
9 answer me. I said, Cookie, try to give her CPR,
10 and I ran out the house in my bare feet, and I
11 drove from Susquehanna Township all the way to
12 Iris's. I don't remember getting there. I just
13 remember that I was there, and I saw the
14 ambulance, and I'm a nurse and I couldn't figure
15 out why the crew was outside when she was in
16 there. They were just standing there not doing
17 anything.

18 Then I saw him. I didn't really know
19 him, but he just walked out of that door by
20 himself. They wouldn't let me in. He just
21 walked out, and then I remember Mr. Hetrick
22 coming to me and he bent down because I was on
23 the ground somehow, and he said to me she's dead.
24 You can come down and see her in a few hours.

25 You know, that doesn't register. I've

1 seen lots of people die. I've helped people die.
2 I've held their hand. I prayed. But somehow it
3 just didn't register that -- they were so unreal,
4 so just not real. Nine years I can't sleep. My
5 dreams are so real.

6 I have seven other children and I can't
7 really be there for them like I'm supposed to be.
8 I love them all the same. I tried to raise them
9 all to be honest, to believe in God and do the
10 right thing, but me telling them to do the right
11 thing and have her murdered and nobody seems to
12 care.

13 She was a loving human being, and she
14 absolutely was doing the wrong thing. But she
15 was not raised in a house of hate. She was
16 raised with love, and even though she didn't have
17 her father, I was her mother and her father, and
18 I did the best for all of my kids. I was there
19 with them. I tried to be a role model for them.
20 They know right from wrong. It doesn't matter.
21 I always told them if you do the wrong thing,
22 there's consequences. If you go out and get in
23 trouble and go to jail, do not look for me to get
24 you out because you already know.

25 I thought they were lying to me. I

1 thought because she did what I told her to do, to
2 help catch other guys that tried to murder my
3 next-door neighbor, that she was already all
4 right. I never imagined one year later on the
5 exact same day the same thing would happen to
6 her, the same thing on the same day.

7 When your kids get older, you know, they
8 think they know everything. Even when they are
9 in their 20's and 30's they don't really know.
10 They think they do. Outside influences, the way
11 our country is with the drugs and the abuse of
12 women and children, they have no idea how
13 horrible it really is.

14 I told Iris the last conversation I had
15 with her, I said, Iris, I heard you're doing
16 stuff out there and you already know it's wrong.
17 I said you're dealing with people that are not
18 like you. You grew up with love and a belief in
19 God, and although you're strained, I do believe
20 when you raise a child like that and they
21 eventually come back if they have a foundation
22 even if they mess up.

23 I said to my child, you don't know these
24 people. They will hurt you. They will do
25 anything to you because they are not like you.

1 It has been so bad. I do not even wish this on
2 him nor his family. It is such a horrible,
3 unbelievable nightmare, and it will never end for
4 us. I don't seek revenge because when I close my
5 eyes for the last time, I don't want to have
6 another person's death on my hands.

7 Anger, of course; I'm a human being, but
8 that's so long gone because it was eating me up.
9 It was killing me. It was making me not able to
10 take care of the rest of my children and my
11 grandchildren.

12 I'm not a perfect human being, and it's
13 real tough when you try to lay down after work
14 and I get these pictures in my head because for
15 nine years we didn't know what happened to Iris.
16 I thought she was still alive. I thought they
17 put her in a program and somehow she was going to
18 contact me because she never let me see her. I
19 never saw her again.

20 My cousin buried her. He wouldn't let me
21 see her either. So my imagination took over and
22 through all this time I would catch myself
23 looking for her and then I would remember, oh,
24 no, she's gone. But is she gone?

25 We had to go into that apartment and look

1 at her Christmas tree with blood on it and the
2 presents she had for her daughter with blood on
3 them. Nobody cleans up places when somebody has
4 a death like that. Nobody comes and cleans up
5 the blood. I saw right where she died, right
6 where the big pool of blood was.

7 Me and my child -- the landlord didn't
8 come to let us in. We crawled in the window.
9 It's just been one thing after the other. My
10 child meant everything to me. Iris was the light
11 for the family. She loved her little sisters and
12 brothers. They were so little then, but I could
13 tell if they even saw her out the window of the
14 house -- it would be quiet, believe it or not,
15 and then I hear all this noise and flipping and
16 giggling and carrying on. I would look over at
17 my mother and say, must be Iris coming.

18 She loved her family. She loved God.
19 She would have never harmed anyone. God chose to
20 allow this to happen and it didn't just happen
21 for one reason. We all make mistakes. We have
22 to learn to forgive, and I pray for his soul, and
23 I pray for my daughter's soul. I hope that you
24 understand that for the rest of our lives things
25 will never be the same for our family. Thank

1 you.

2 THE COURT: Thank you, Ms. Belcher.

3 MR. McCORMACK: My last witness will be
4 Johanna Iftikhar-Khan.

5

6 JOHANNA IFTIKHAR-KHAN,

7 having been sworn, was examined and testified as
8 follows:

9

10 BY MR. McCORMACK:

11 Q Could you please state your name and
12 spell your last name for us again?

13 A Johanna Iftikhar-Khan, I-f-t-i-k-h-a-r,
14 K-h-a-n.

15 Q And how are you related to Iris?

16 A I am -- Iris is my daughter, Brittany's
17 grandmother, and I was Iris's surrogate mother.

18 Q Could you express to the Court what
19 Iris's murder has meant to you? In particular
20 you have been the person raising Brittany; is
21 that correct?

22 A Yes, yes. You know, Iris's death has had
23 a tremendous impact on our family, her biological
24 family, her adoptive family that adopted her
25 through love, and her friends, and more

1 importantly it has changed the course of her
2 daughter's life starting with the day that Iris
3 was murdered five days before Christmas.

4 I believe besides the person that
5 murdered Iris, I was the last one that spoke to
6 her, and we had plans to go Christmas shopping on

7 December 20th to finish getting things for
8 Brittany's Christmas and for her birthday, which
9 was shortly after Christmas.

10 Those are supposed to be happy times.
11 Christmas is supposed to be a happy time for
12 kids, for families. Birthdays are supposed to be
13 happy times. When holidays come around now, all
14 we have is sorrow. We're trying to get back to
15 that point where we can be happy, but it's hard
16 to do.

17 When Iris was murdered, you try to
18 explain it to a four year old. We didn't know
19 how to explain to her that her mommy was gone.
20 She asked us what happened. We finally, through
21 a child psychologist, we had to tell her. We
22 couldn't wait until Christmas or after her
23 birthday.

24 To have a four year old ask what happened
25 to her mom, you do not expect. Her mommy went to

1 heaven to be with God. For a four year old to
2 come to you and say, no, you tell me what
3 happened to my mom. You tell me what happened to
4 my mom, a four year old, and we had to explain to
5 her that her mom was murdered and she wouldn't
6 even accept that. She wanted to know what

7 happened. Her words were tell me now. You tell
8 me what happened to my mommy, and we had to tell
9 her her mother was shot, that she was murdered.
10 Every day we live without Iris; my granddaughter
11 lives without her mother every single day now.

12 Your Honor, I don't know what the
13 sentence guidelines are, but I know what Iris's
14 sentence was. Her sentence was death and her
15 sentence was death at the early age of 20 years
16 old, before she had a chance to even turn 21,
17 before she had an opportunity to get her driver's
18 license.

19 She didn't have the opportunity to see
20 her child graduate from high school or when her
21 daughter gets married or when she just goes
22 through the normal things that little girls go
23 through. I'm there for her. I've always been
24 there for her but as much as I love her, I can
25 never replace her mommy for her.

1 Iris wasn't doing the things that we all
2 wanted her to do, and she made some wrong choices
3 in life. But she didn't have the opportunity to
4 change her life, the changes that we were talking
5 about the night or the morning of her murder.

6 We were on the phone until maybe 1:30 or
7 later in the morning, but she said she wanted to
8 go to HACC to become a nurse, like her mom, that
9 she was changing her life. She didn't have an
10 opportunity to do those things, Your Honor. Her
11 life was taken away, was snuffed out. No one, no
12 matter what, had the right to take her life. No
13 one had the right to do that. No one had the
14 right to rob Brittany of her mother.

15 I'm asking that you give this convicted
16 murderer the maximum sentence allowable by law.
17 I ask that for Iris and I ask that for her
18 daughter. I ask that for her mother and for all
19 the rest of us. There's no real justice.
20 There's two families that have been affected.
21 There's no real justice in this at all. But I
22 ask for you to give him the sentence -- the
23 maximum allowable sentence that you can give him
24 by law. That's my request.

25 THE COURT: All right. Thank you.

1 Anything further?

2 MR. McCORMACK: No further testimony,
3 Your Honor. Wait. I apologize, Your Honor.

4

5 DAELENE SAEZ,
6 having been sworn, was examined and testified as
7 follows:

8

9 BY MR. McCORMACK:

10 Q Could you please state your name for the
11 record?

12 A Daelene Saez.

13 Q And we heard during the course of the
14 trial, you were a friend of Iris's.

15 A Yes.

16 Q You have an opportunity now to speak to
17 the Court concerning sentencing in this matter.

18 A I just want to say that I was friends
19 with both Tyshaunt and Iris. So I'm kind of,
20 like, stuck in the middle. I feel bad for you
21 and your family. I feel bad for Iris's family.
22 I know that when I come around the block and that
23 cab pulls up around the corner, I'm not going to
24 see her standing there or waiting, coming to my
25 house to meet me. We lived together for a while.

1 We talked a lot.

2 She had a daughter. I had a child. We
3 talked about what we wanted for our kids, and I
4 sit back and think about polishing her
5 fingernails, doing her hair. I think of those
6 things you do for them every day. You take them
7 for granted.

8 My daughter is going through puberty.
9 Brittany has no one to talk to. She can go to
10 her grandmother. Not that her grandmother isn't
11 right. It's just the fact that your mother, you
12 know -- she never going to have a mom. Iris was
13 only 20 years old. I remember when I used to go
14 party, go to New York all the time. She would
15 say I want to come to the club. You can't get
16 in. The ID's are really strict. As soon as you
17 turn 21, the first place girlfriends go is to the
18 Olympic bar.

19 I took two bottles and walked all the way
20 to her gravesite, sat with two champagne glasses
21 and celebrated my girlfriend's 21st birthday.
22 That's not what I intended to do.

23 Brittany, I want you to know even though
24 your mom is not here, she would have been proud.
25 Your mom is proud, and you are going to be a

1 beautiful, beautiful young lady, and she will be
2 very proud. She is proud, and that's it, and I
3 know that I believe in my heart of hearts that,
4 you know, what went on in that house --

5 THE DEFENDANT: I told these people --

6 THE WITNESS: I would just hope that at
7 some time -- I went to visit him when he got
8 incarcerated the first time and I said to him
9 before you hear from anybody else, I want you to
10 know and I want to hear from you, I asked him if
11 he did it, and he said he didn't. I said, well,
12 I believe you. Do you know who did it or what
13 went on there? You need to say something. I
14 still stand by that. I do believe he knows what
15 went on there. If you can find in your heart of
16 hearts some day --

17 MR. MULLER: I think we've gone beyond
18 victim impact here.

19 THE WITNESS: That's pretty much all I
20 have to say. Thank you.

21 THE COURT: Now, do you want to address
22 me first?

23 MR. McCORMACK: I have nothing further
24 other than just argument.

25 THE COURT: Who wants to go first?

1 MR. McCORMACK: I suggest it is the
2 Defense.

3 MR. MULLER: Judge, obviously here
4 because of the third degree verdict last month in
5 court and obviously while we may not agree with
6 it, that is what we're here for and we understand
7 that. The guidelines give you a broad discretion
8 in sentencing someone for third degree murder. I
9 don't think there's any other crime that someone
10 can be convicted of that has such a broad range
11 of minimum penalties as this does.

12 We would ask that you consider what you
13 heard from Mr. Love and his family today and that
14 you consider what's in the Pre-Sentence
15 Investigation, including the fact that he has two
16 children back in New York and a third one on the
17 way. We just ask that you take those things into
18 consideration, into serious consideration when
19 fashioning a sentence in this case.

20 MR. McCORMACK: Your Honor, just a couple
21 of things. First of all, concerning the
22 guidelines, as I indicated, it was a little
23 difficult putting the guidelines together in that
24 we were dealing with a crime that occurred on
25 December 20, 1996. The law had changed in 1995.

1 Previous to 1995, May of 1995, if someone was
2 convicted of murder in the third degree, they
3 faced a maximum penalty of 20 years in jail. In
4 May of 1995 the law changed. The legislature
5 increased it to a maximum penalty of 40 years in
6 jail, what it still stands at today.

7 However, unfortunately the way things
8 work is the sentencing guidelines did not catch
9 up with the actual crime itself until June of
10 1997, hence, the reason why the guidelines topped
11 out at 10 years in the standard range, and I
12 would note that according to the old guidelines,
13 there wasn't even an aggravated range because the
14 original guidelines included the max.

15 Now, six months later the legislature
16 expressed its desire and made the max what it is
17 today being -- the max being the standard range
18 of the sentencing guidelines.

19 That certainly was a concern to me. As I
20 started putting them together and I went and did
21 some research looking at some cases where people
22 were sentenced for crimes that occurred under the
23 old guidelines but in this same time frame and
24 there is case law that supports departing from
25 those old sentencing guidelines and using the

1 sentencing guidelines that would have been --
2 that correctly expressed the desire of the
3 legislature and through them the desire of the
4 people of this Commonwealth to hold someone who
5 has been convicted of murder in the third degree
6 accountable, to give the Court the ability to

7 provide a sentence to the maximum, and, you know,
8 I would ask the Court to give that consideration.

9 The one case in particular I noted just
10 for the record is Commonwealth versus Darryl
11 Kimbrough, 872 Atlantic 2nd 1244, for that the
12 judge departed from the sentencing guidelines.
13 In fact, that murder happened a day before the
14 sentencing guidelines took effect and, therefore,
15 still would have been under the old guidelines.

16 Being in front of this Court, I know
17 you're aware of this but the judge must take into
18 account the protection of the public,
19 rehabilitative needs, the Defendant's gravity
20 score, the particular offense and how it relates
21 to the life of the victim and the community.

22 This crime, as the Court heard in extreme
23 detail over a week and a couple of days, was an
24 extremely brutal crime. The Defendant that
25 stands before you today and who quotes, from his

1 high school English teacher, poetry, I would
2 suggest to the Court is that Schoolboy, that
3 nickname that he had when he was up in New York,
4 not the smooth schoolboy-ish, this bookish
5 gentleman as compared to who, I submit to you,
6 committed this crime.

7 This was a brutal crime. This was not
8 any shooting. This was a horrible crime, but
9 this was more than just a shooting. This was a
10 very personal brutal crime, and we saw it in all
11 the pictures that were introduced during the
12 course of this trial. We --

13 THE COURT: I remember them.

14 MR. McCORMACK: We saw it in her face
15 with the gunshot wounds in her face, her swollen
16 face, her broken nose, her broken finger, and,
17 finally, in fact, the hyoid bone in her neck was
18 broken probably from strangulation. This was
19 someone who wanted to kill someone and certainly
20 did it with malice, as the jury found in this
21 case.

22 Cuzzo, that is the man who was beating on
23 Iris, and, yes, Iris wouldn't always be a
24 wallflower and take it. This is the man who
25 wanted to control her life. This was the man, I

1 submit to you that the jury believes, that she
2 was kicking him out of the house and he came back
3 into that house and whether a spark was ignited
4 before he got to the house or after he got into
5 the house, whatever, some spark was lit within
6 this man that he committed this brutal crime and

7 when you have a crime this brutal, I think it
8 warrants you to departing from the old sentencing
9 guidelines and going into the aggravated range.

10 I would submit to the Court that indeed a
11 maximum penalty of 20 to 40 years is appropriate
12 considering the crime that was committed here
13 today, and that's what we're looking at. We're
14 looking at what punishment is appropriate for the
15 crime that was committed, and this was a brutal
16 crime. You have a man, I submit to the Court,
17 who not only after he committed the crime, the
18 Defendant attempted to stage the crime scene and
19 put the blame on someone else.

20 The Defendant doesn't have to come in
21 here and say suddenly, okay, I'm not innocent
22 anymore. I admit to it and I plead to the
23 Court's mercy, and I'm sorry for everything. He
24 chose not to do that. That's a choice he made.
25 He made a lot of choices along the way.

1 You read about his background in the
2 Pre-Sentence Investigation. You heard from his
3 family here today. He had a good background.
4 He, unlike so many other people that come before
5 you, graduated from high school. He had
6 opportunities. He was trying to learn a trade.

7 At one point I noted he was going to some trade
8 school at some point.

9 Yet he made choices; even when he was in
10 New York City he made choices, according to him,
11 \$500 a week being a look out for drug dealers.
12 Then he comes down to our city to start dealing
13 drugs here and making money and making sometimes
14 on a really good day according to him 1500 a day.
15 That's a choice he made. They are choices, and
16 what happened on the date of December 20, 1996
17 was a choice he made. He chose to commit this
18 crime, and at this time I ask the punishment that
19 you give this Defendant fit the crime that he
20 chose to commit.

21 MR. MULLER: Judge, if I may address the
22 sentencing guideline issue. I've been on the
23 opposite end of this sentencing guideline divide
24 with the '97 guideline versus pre-'97 guideline.
25 The '97 guidelines actually made the sentencing

1 guidelines for drug crimes what they had been
2 previously, and I had the occasion of arguing --
3 well, you know the new guidelines are going to
4 make this, even though the crime happened under
5 the old guidelines -- and, you know, I've been
6 told by more than one judge that doesn't matter.

7 It's the old guidelines that apply, and I think
8 that's what applies here too.

9 We talk about the minimum and maximums
10 under the law. We talk about the guidelines, and
11 adherence to the guidelines, and I don't think
12 it's just as easy to pick and choose what set
13 guidelines you adhere to based on these dates. I
14 think it's the pre-'97 guidelines that apply.
15 The maximum especially changes under the law, but
16 the guideline range did not change and --

17 MR. McCORMACK: Under the old guidelines
18 would never be appropriate, would seem to go
19 beyond the 10 years up to the maximum, which is
20 what the legislature a year and a half previously
21 had enacted.

22 THE COURT: I understand your point, both
23 sides.

24 MR. MULLER: Your Honor, I know Mr. Love
25 disputes what Mr. McCormack has been telling the

1 Court. I'm advising him he had his say.

2 THE COURT: And I read the Pre-Sentence
3 Investigation report carefully. I understand
4 your position here.

5 THE DEFENDANT: The chronological order.

6 THE COURT: There are lots about this job
7 that I really enjoy. There are days like today
8 that is not one of them. I listened to this
9 story as the jury did and watched a tragedy
10 unfold certainly for Iris Fennel and Iris
11 Belcher's family and today we watch that tragedy
12 expand to include Mr. Love's family. This robe
13 comes with no crystal ball, no promise of
14 perfection. I'm no more perfect than anyone
15 else.

16 The jury, however, has spoken, made their
17 determination and now it's my obligation to
18 impose an appropriate sentence.

19 And now this 28th day of October 2005, in
20 the matter of Commonwealth versus Tyshaunt Love,
21 Docket 937 CR 2002, the Defendant having been
22 found guilty by a jury of his peers following the
23 trial concluding on September 20, 2005, I
24 sentence the Defendant to a term of incarceration
25 of not less than 15 nor more than 30 years, pay a

1 fine of \$2,000, plus the costs of prosecution in
2 these proceedings.

3 To the extent this sentence deviates from
4 the guidelines that may have been in effect at
5 the time, I do so because I believe the nature of
6 the offense, brutality of the crime, the

7 execution style of the murder itself warrants a
8 deviation. I also do so on the basis that as by
9 the Commonwealth's guidelines, departure is
10 warranted when the legislature had clearly
11 expressed an indication that it would be there,
12 would be a much higher maximum sentence
13 applicable and the guidelines had not caught up.

14 MR. MULLER: Your Honor, we have the
15 issue of time credit. Three separate periods,
16 Your Honor, initially December 21st of 1996 until
17 March 6, 1998; second would be February 15, 2002
18 until February 12, 2004; and finally, September
19 20 of 2005 until today's date, October 28, 2005,
20 so approximately three years and three and a half
21 months time credit at this docket.

22 THE COURT: Do those dates sound right?

23 MR. McCORMACK: The only thing I
24 question, one thing with my research, is the
25 Defendant although it was for the murder was not

1 incarcerated under these charges at that time.

2 MR. MULLER: At which time?

3 MR. McCORMACK: During 1996. During
4 1996, the Defendant was arrested on a separate
5 complaint. That complaint was dismissed. That
6 complaint was withdrawn, and I simply ask at this
7 point --

8 THE COURT: It was a complaint for this
9 homicide?

10 MR. McCORMACK: For this homicide. What
11 I'll do, I'll research it. If I feel I have
12 issue with it, I would file a motion with the
13 Court.

14 THE COURT: I can't imagine just by
15 dismissing the charge and refileing that the
16 prosecution can erase time served from that date.

17 MR. MULLER: The courts have been clear
18 that --

19 THE COURT: I'm granting the credit as
20 requested.

21 MR. McCORMACK: It hasn't been cleared.
22 There's, in fact, a recent case that came down --

23 THE COURT: I'll take a look at it, but
24 I'm granting it for today's purposes.

25 MR. MULLER: Could you read his

1 post-sentencing rights?

2 MR. McCORMACK: Mr. Love, at this time
3 the Court has sentenced you to 15 years to 30
4 years in the State Correctional Institution. You
5 also have been fined \$2,000. You have certain
6 rights at this time. You have a right within the
7 next 10 days to file a motion before this court,
8 post-sentencing motion.

9 You have 30 days from the disposition of
10 those motions to file an appeal to the Superior
11 Court. You can take a direct appeal to the
12 Superior Court. That must happen within the next
13 30 days; however, you need to discuss this with
14 your attorney because there are certain issues,
15 for example, sentencing, and there are other
16 issues that must be taken within the next 10 days
17 before this court. Otherwise, you would lose
18 them if you went directly to the Superior Court.
19 Do you understand what I've said so far?

20 Basically I'll review them one more time.
21 You have 10 days to file a post-sentence motion
22 to Judge Bratton.

23 MR. MULLER: Which includes a motion to
24 modify the sentence.

25 MR. McCORMACK: You have 30 days from

1 today if you choose to skip filing that motion
2 with Judge Bratton, to go directly to Superior
3 Court within the next 30 days; however, if you
4 did that and you failed to raise things with
5 Judge Bratton, you would lose some of those
6 issues. You need to discuss this with your
7 attorney as to what issues need to be filed
8 within the next 10 days.

9 If you file a post-sentence motion, you
10 have 30 days from the date that Judge Bratton
11 rules on those motions to file an appeal to the
12 Superior Court. Do you understand that?

13 THE DEFENDANT: Basically I have 10 days
14 to file a motion in front of Judge Bratton about
15 all of the things that didn't occur during the
16 trial.

17 MR. MULLER: I'm going to have to discuss
18 that with you. Certain things have to be raised
19 in the post-sentence motion. Two relevant ones
20 come to mind, sentencing issues must be raised in
21 a post-sentence motion -- okay -- whether it's a
22 motion to modify or whatever, that has to be
23 raised. The second is something called weight of
24 the evidence, and it's a legal term.

25 THE DEFENDANT: Amendment rights are

1 something like --

2 MR. MULLER: I'll have to explain them to
3 you. Weight of the evidence is something that
4 also must be raised in a post-sentence motion or
5 it is considered waived.

6 Other issues such as sufficiency of the
7 evidence, trial court error, things like that do
8 not have to be raised in a post-sentence motion
9 and can be raised before the Superior Court in an
10 appellant process.

11 If you decide to take a post-sentence
12 motion, that 30 day period of appeal does not
13 begin to run until Judge Bratton has issued an
14 order in response to those post-sentence motions.
15 When he issues that order, the 30 days starts
16 ticking to file a notice of appeal to the
17 Superior Court.

18 MR. McCORMACK: If you choose to do so
19 through your attorneys, you can file all your
20 motions all at one time in a post-sentence motion
21 within the next 10 days. Do you understand that?

22 THE DEFENDANT: Yes.

23 MR. McCORMACK: You're currently
24 represented by the Public Defender's office free
25 of charge. You have a right to be represented by

1 an attorney in post-sentencing motions and
2 appeals. I would imagine the Public Defender's
3 office would continue to represent you. If you
4 cannot afford an attorney, you have the right to
5 be represented by the Public Defender's office or
6 court-appointed counsel. Do you understand that?

7 THE DEFENDANT: Yes.

8 MR. McCORMACK: I don't think I missed
9 anything. Thank you, Your Honor.

10 THE COURT: Thank you.

11 * * * *

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1 CERTIFICATE
2
3

4 I hereby certify that the proceedings
5 and evidence are contained fully and accurately in the
6 notes taken by me on the hearing of the above cause,
7 and that this is a correct transcript of the same.

8
9
10 
11 Joanne M. Kohn
12 Official Court Reporter
13

14 The foregoing record of the proceedings
15 of the above cause is hereby approved and directed to
16 be filed.
17
18
19
20
21
22

23 _____
24 Date

Bruce F. Bratton, Judge